

HOUSE BILL 2897
By McMillan

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 6, relative to child custody and visitation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 36, Chapter 6, Part 1, is amended by adding the following new section:

(a) If a child is consistently spending intervals of time with each parent and one of the parents decides to relocate for a period exceeding ninety (90) consecutive days either outside the state or more than one hundred and fifty (150) miles from the other parent within the state, such parent shall provide not less than sixty (60) days' written notice of his or her intent to relocate unless excused by the court for exigent circumstances. The notice shall be sent by registered or certified mail to the other parent's last known address and shall inform the other parent:

(1) Of the relocating parent's intention to establish his or her legal residence for a period exceeding ninety (90) consecutive days either outside the state or more than one hundred and fifty (150) miles from the other parent within the state.

(2) The location and the reasons for the proposed relocation.

(3) If the child resides an approximately equal or greater amount of time with the parent proposing to relocate, such parent shall inform the other whether he or she intends to remove with the child. The other parent may not choose to

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remove with the child unless expressly authorized to do so by the court pursuant to a change of custody or primary custodial responsibility.

(4) If the parent is planning to remove with the child, the notice shall further state that the other parent may file a petition in opposition to removing the child within thirty (30) days after receipt of this notice.

(b) A copy of the notice shall be filed with the court.

(c) If no petition in opposition to relocating the child is filed within thirty (30) days after delivery of the notice, then the parent proposing to relocate with the child may do so.

(d) If the child does not reside with both parents for substantially equal intervals of time, then the parent with whom the child resides the majority of the time shall be permitted to relocate with the child unless the parent opposing the relocation establishes one of the following grounds:

(1) The relocation does not have a reasonable purpose; or

(2) The relocation would pose a threat of specific and serious harm to the child which outweighs the threat of harm to the child of a change of custody. Specific and serious harm to the child shall include, but is not limited to, the following:

(A) If a parent wishes to take a child with a serious medical problem to an area where no adequate treatment is readily available;

(B) If a parent wishes to take a child with specific educational requirements to an area with no acceptable educational facilities;

(C) If a parent wishes to relocate and take up residence with a person with a confirmed history of child or domestic abuse or who is currently abusing alcohol or other drugs;

(D) If the child relies on the parent not relocating who provides emotional support, nurturing and development such that removal would result in severe emotional detriment to the child;

(E) If the custodial parent is emotionally disturbed or dependent such that he or she is not capable of adequately parenting the child in the absence of support systems currently in place in this state, and such support system is not available at the proposed relocation site;

(F) If the proposed relocation is to a foreign country whose public policy does not normally enforce the visitation rights of non-custodial parents, which does not have an adequately functioning legal system or which otherwise presents a substantial risk of specific and serious harm to the child.

(3) The parent's motive for relocating with the child is vindictive in that it is intended to defeat or deter visitation rights of the non-custodial parent.

(e) If the parent opposing the relocation of the child establishes one of the grounds designated in this section, the court shall determine whether or not to permit relocation of the child based on the best interests of the child. If the court finds it is not in the best interests of the child to relocate as defined herein, but the parent with whom the child resides the majority of the time elects to relocate, the court shall make a custody determination pursuant to the factors set forth in Tennessee Code Annotated, Section 36-6-106.

(f) If the parents are actually exercising substantially equal intervals of time with the child, and the parent not relocating has filed a timely petition in opposition to removing the child, the court shall determine whether or not to permit relocation of the child based on the best interests of the child. If the court finds it is not in the best interest of the child to relocate as defined herein and the parent decides nevertheless to

relocate, the court shall make a custody determination pursuant to the factors set forth in Tennessee Code Annotated, Section 36-6-106.

(g) If either parent decides to relocate with or without the child, then either parent may file a petition to address such issues as visitation, assessment of the costs of transporting the child for visitation and whether child support should be modified. Under this section, the court shall consider the availability of alternative arrangement to foster and continue the child's relationship with and access to the other parent.

(h) The move itself shall not be considered a change of circumstances sufficient to require a change of custody.

(i) Nothing in this section shall prohibit either parent from petitioning the court at any time to address issues other than a change of custody related to the move.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.